

In the Supreme Court of the State of Idaho

IN RE: AMENDMENT OF IDAHO CRIMINAL RULE
46.2 and AMENDMENT TO APPENDIX A

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ORDER

The Court having reviewed Idaho Criminal Rule 46.2, and the Court being advised of the need for a statewide, uniform Criminal No Contact Order form, and the Court being fully informed;

NOW, THEREFORE, IT IS HEREBY ORDERED that the Idaho Criminal Rules as they appear in the volume published by the Idaho Code Commission be, and they are hereby, amended as follows:

1. That Rule 46.2 be, and the same is hereby, amended as follows:

Rule 46.2. No Contact Orders

(a) **Orders in Writing; Service; Form; Contents.** No contact orders issued pursuant to Idaho Code § 18-920 must be on the Supreme Court form found in Appendix A in writing and served on or signed by the defendant. A defendant, who was not present when the order was initially issued, may request a hearing on the order. This request must be filed within seven (7) days of service of the order. The court must hold a hearing within fourteen (14) days of the filing of the request and must provide notice of the hearing to the protected person and the parties. Each judicial district must adopt by administrative order a form for no contact orders for that district. No contact orders must contain, at a minimum, the following information:

- (1) the case number, defendant's name and protected person's name;
- (2) a distance restriction;
- (3) notice that the order will expire at 11:59 p.m. on a specific date, or on dismissal of the case; and
- (4) an advisory that:

- (A) ~~a violation of the order may be prosecuted as a separate crime under Idaho Code § 18-920 for which no bail will be set until an appearance before a judge, and the possible penalties for this crime;~~
- (B) ~~the no contact order can only be modified by a judge, and~~
- (C) ~~when more than one no contact order or domestic violence protection order is in place, the most restrictive provisions of each will control any conflicting terms of any other civil or criminal protection order.~~

~~Whenever a no contact order is issued, modified or terminated by the court, or the criminal case is dismissed, the clerk must immediately give written notification to the sheriff's office in the county in which the order was originally issued. No contact orders must be entered into the Idaho Law Enforcement Telecommunications System (ILETS).~~

- (b) **Modification or Termination at Request of Protected Person.** A protected person named in a criminal case for which a no contact order has issued may request modification or termination of that order by filing a written and signed request with the clerk of the court in which the criminal offense is filed. Forms for such a request must be available from the clerk. The court must provide for a hearing within fourteen (14) days of the request and must provide notice of the hearing to the protected person and the parties.

2. That APPENDIX A of the Idaho Criminal Rules shall be amended to add the form for a No Contact Order that is attached to this order.

IT IS FURTHER ORDERED that this order shall be effective July 1, 2017.

IT IS FURTHER ORDERED that notice of this Order shall be published in one issue of The Advocate.

DATED this 5th day of May, 2017.

By Order of the Supreme Court

R. Burdick
Roger S. Burdick, Chief Justice

ATTEST:

[Signature]
Clerk

I, Stephen W. Kenyon, Clerk of the Supreme Court of the State of Idaho, do hereby certify that the above is a true and correct copy of the [Signature] entered in the above entitled cause and now on record in my office.
WITNESS my hand and the Seal of this Court 5-5-17

STEPHEN W. KENYON

Clerk

By [Signature]

Deputy

IN THE DISTRICT COURT OF THE <_DistrictName_> JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF <_CountyName_>

<_Style_>

Case No. _____

No Contact Order I.C. 18-920 - I.C.R 46.2

☐ Original ☐ Amended

DR# _____

Law enforcement agency _____

Expires at 11:59 p.m. on _____ or
upon dismissal of this case, whichever occurs first

Event Code: NCO

Protected Person(s) Identifiers:

Name (First, Middle, Last)

Date of Birth (optional)

Defendant's Identifiers:

Date of Birth	
Gender	Race

TO THE DEFENDANT: You have been charged with or convicted of the following crime(s):

<u>Count</u>	<u>Statute</u>	<u>Charge Desc</u>
<_ChrgNum_>	<_ChrgStatute_>	<_ChrgDesc_>

Relationship to protected person(s), if any: _____

This COURT, having personal and subject matter jurisdiction, finds that a no contact order is appropriate and HEREBY ORDERS THAT, with regard to the protected person(s) named above, YOU must not engage in any of the following conduct:

Do not contact or attempt to contact, either personally or through another person, the protected person(s) named above in any manner, including: 1) do not communicate in person or in writing or through any electronic means, including telephone, email, text, through social networking, or facsimile 2) do not harass, stalk, threaten, use, attempt to use or threaten use of physical force, engage in any other conduct that would place the protected person(s) in reasonable fear of bodily injury 3) do not knowingly remain within _____ feet of the protected person(s) 4) do not go within and/or knowingly remain within _____ feet of the following address(es):

Protected person's home: _____

Protected person's workplace: _____

Protected person's school: _____

However, you may participate in legal proceedings involving you and the protected person(s), and you may communicate through attorneys about legal issues involving you and the protected person(s).

☐ **THERE ARE NO EXCEPTIONS TO THE ABOVE ORDER.**

☐ **THERE ARE EXCEPTIONS TO THE ORDER ABOVE AS FOLLOWS:**

- ☐ to contact by telephone between _____ .M. and _____ .M.
for the following purposes: _____
- ☐ to participate in court ordered mediation
- ☐ to provide for the exchange of children between the protected person and defendant
through: _____
- ☐ to retrieve personal necessities from the residence/protected address one time
through: _____
- ☐ to respond to emergencies involving your natural or adopted children
- ☐ other: _____

[03] [] IF THIS ORDER REQUIRES YOU TO LEAVE A RESIDENCE SHARED WITH THE PROTECTED PERSON, you may contact a law enforcement officer who may make arrangements to accompany you to the residence to remove items and tools necessary for employment and personal belongings. The officer may determine what constitutes necessary personal belongings.

Yes [] No [] Defendant appeared or had actual notice of this hearing and the opportunity to participate. If NO, then upon service, Defendant is notified of the right to request a hearing before a judge on this Order. The request must be filed within 7 days of service. To request a hearing you must contact the clerk of the court at (address) _____ (phone) _____. The court must hold a hearing within 14 days of the filing of the request and must provide notice of the hearing to the protected person and the parties.

A violation of this order is a separate crime under Idaho Code § 18-920, for which no bail will be set until you appear before a judge. The maximum penalty for a violation of this Order is one year in jail and/or up to a \$1000 fine. However, if the violation is a third offense, the violation is a felony, which is punishable by imprisonment in the state prison for up to five years and/or up to a \$5000 fine. *If any other Civil Protection Order or Criminal No Contact Order is in place you must abide by the terms in the most restrictive order.* Dismissal of any other order will not result in a dismissal of this Order. ONLY A JUDGE CAN MODIFY THIS NO CONTACT ORDER.

The court clerk must immediately send a copy of this Order to the Sheriff's Office in the county in which this Order was originally issued for entry into record systems and must deliver or mail a copy of this Order to the protected person(s) listed above.

IT IS SO ORDERED.

Dated: <_CurrDate_> _____ <_CaseJudOfficer_>
Judge

WARNINGS: As a result of this Order, it may be unlawful for you to purchase or possess a firearm, including a rifle, pistol, or revolver, or ammunition pursuant to federal law under 18 U.S.C. § 922(g)(8) . If you have any questions whether these laws make it illegal for you to possess or purchase a firearm, you should consult an attorney.

This Order is valid and entitled to enforcement in each jurisdiction throughout the 50 states of the United States, the District of Columbia, all tribal lands, and all U.S. territories, commonwealths, and possessions and shall be enforced as if it were an order of that jurisdiction (18 U.S.C. § 2265).

I, the Defendant named above, acknowledge receipt of this order.

Defendant Signature: _____ Date Signed: _____

Served by: _____ Law Enforcement Id. #: _____ Date served: _____

CERTIFICATE OF SERVICE

☐ I certify that on <_CurrDate_>, I served a copy of the attached to:

<_CCListAllParAddrCase_>

☐ By mail

☐ By email

☐ By fax (number) _____

☐ By personal delivery

☐ Overnight delivery/Fed Ex

By: _____

Deputy Clerk

Return of Service Criminal No Contact Order

CaseNumber

One Plaintiff Name vs. One Defendant Name

PLEASE SERVE A COPY OF THE FOLLOWING ON THE DEFENDANT:

CRIMINAL NO CONTACT ORDER

RETURN OF SERVICE

The undersigned, a Peace Officer, hereby certifies that he/she served a true copy of these documents upon the DEFENDANT by delivering a copy to him/her on the _____ day of _____, 20____, at the hour of _____m., at the location of _____, City of _____, State of Idaho.

DATED this _____ day of _____, 20____.

SIGNATURE OF SERVER

Title: _____